

## ▶ Kentucky Medicaid Estate Recovery

### ▶ **Estate Recovery**

In 1993, Congress enacted the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) requiring the recovery of medical assistance payments from the estates of deceased Medicaid members age 55.

The identification of open estates subject to a claim and the calculation of the claim amount is completed with strict adherence to Kentucky administrative rules, (907 KAR 1:585), federal law and the approved Medicaid State Plan.

### ▶ **What is Estate Recovery**

- ▶ The recovery of Medical Assistance dollars paid for waiver services and/or services in a nursing facility or intermediate care facility for individuals with an intellectual disability, including expenses related hospital, physician and prescription drugs.
- ▶ The amount recovered shall not exceed the amount paid by the Medicaid Program on behalf of the deceased recipient.

### ▶ **Who Is Subject To Recovery**

- ▶ Any person, over the age of 55 who received waiver services or was in a nursing facility or intermediate care facility for individuals with intellectual disabilities.
- ▶ Any person under the age of 55 who was in a nursing facility or intermediate care facility for individuals with an intellectual disability for six (6) consecutive months.
- ▶ If the person was under age 55 at the time they entered the facility, but over the age of 55 at death, then the over 55 rules applies.

### ▶ **What is Subject to Recovery**

- ▶ Medicaid will only collect from the deceased individual's estate based on the assets the person had in their name at the time of death.
- ▶ Medicaid does not make the estate sell a home, but does require the estate to reimburse Medicaid based on the value of the home if there are no specified exemptions.

### ▶ **When does Recovery Start**

- ▶ The facility or next of kin is to notify DCBS within ten days of the member expiring.
- ▶ DCBS passes this date to Kentucky Medicaid
- ▶ A claim to the estate assets is then mailed with the following information:

- ▶ **Notice of Intent to Recover**
- ▶ A Notice of Intent to Recover shall include:
  - ▶ The action the department intends to initiate
  - ▶ The reason for the action
  - ▶ Exemptions and limitations to estate recovery
  - ▶ Conditions that are considered an undue hardship exemption
  - ▶ Procedures for applying for an undue hardship exemption
  - ▶ The total amount subject to recovery
  - ▶ The procedure for appealing a denial of an undue hardship exemption request
- ▶ **Exemptions from Recovery**
- ▶ An exemption from recovery may be requested in writing if there is a:
  - surviving spouse
  - surviving child under the age of 21
  - surviving blind or disabled child
  - the total value of the estate at the time of death is \$10,000 or less, including real estate
  - the main asset of the estate is the sole income producing asset for a surviving heir such as a family farm or business
  - Waiver from Recovery
- ▶ Medicaid may grant a waiver of recovery on a case by case basis for health care needs or continuing education of an estate heir, with verification to DMS satisfaction.
- ▶ **Contact information**

Division of Program Integrity  
Third Party Liability Branch  
275 East Main Street, 6EA  
Frankfort, KY 40601  
**Phone:** (502) 564-4958